



BEFORE THE HON'BLE HIGH COURT OF
CHHATTISGARH AT BILASPUR (C.G.)

M.A.(C) NO. 383 /2006 **Single Bench**

APPELLANT

NON-APPLICANT NO.3

P.R. No. 3176/06
Presented by Bhannan Goukya
dated 13/12/06

Amit Kumar Sharma, S/o
Shri B.M. Sharma, about
35 years, R/o.
Bhaiyathan, P.S. & PO
Bhaiyathan, Tah.
Surajpur, Dist Surguja
(C.G.) (OWNER)

VERSUS

RESPONDENTS
APPLICANT

1. Kalicharan, S/o. Shri
Sukhlal aged about 30
years, Caste - Kewat,
R/o. village Harrapara,
PO & P.S. Bhaiyathan,
Tah. Surajpur, Distt.
Surguja (CG) (CLAIMANT)

NON-APPLICANT NO.1

2. United India Insurance
Company Limited,
Branch Office Near Ram
Mandir, Ambikapur,
Distt. Surguja (C.G.)
(INSURER)

NON-APPLICANT NO.2

3. Ramesh Kumar Tiwari,
son of Shri Anjani Prasad
Tiwari, aged about 22
years, resident of village
Jamdi, PO Bhaiyathan
Tah. Surajpur, Distt.
Surguja (C.G.) (DRIVER)

MEMO OF APPEAL UNDER SECTION 173 OF THE
MOTOR VEHICLE ACT, 1988

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>15-11-2006</u> Shri A.K.Shukla, learned counsel for the appellant. Heard on admission. The only point urged by the learned counsel for the appellant in this Miscellaneous Appeal preferred by the Owner is that the learned Motor Accident Claims Tribunal failed to appreciate the evidence adduced by the appellant and erroneously came to the conclusion that there was a breach of policy by the owner. Learned counsel for the appellant did not dispute the following facts :- (A) That the appellant was the owner of Jeep bearing Registration Number-C.G.-15/ZD/0680 on the date of accident i.e. 15-07-2004. (B) That the aforesaid vehicle was insured for private use by the respondent No.2/Insurance Company. (C) That the respondent No.1 Kalicharan was travelling in the ill-fated jeep which turned turtle on 15-07-2004 and sustained injuries due to accident. Learned counsel has while making submission referred to the certified copy of the statement of injured Kalicharan and the Investigator Anoop Mehta for the Insurance Company which are taken on record. Having considered rival submissions and after perusing the statement of Anoop Mehta N.A.W.-1 and Kalicharan A.W.-1, the contention of learned counsel for the appellant is liable to be rejected.	

मामला क्रमांक N.A.(C) No. 363/सन् 2006

(26)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	The Insurer has after conducting the enquiry through investigator Anoop Mehta also adduced his testimony which established that the Jeep bearing Registration Number-C.G.-15/ZD/0680 was being used for carrying passenger for hire at the time of the accident. The admission by Mahipal A.W.-2 in para-9 of his testimony that he had booked the vehicle belonging to the appellant/owner for dropping his daughter to Village-Chainpur and the fact that no explanation has been offered by the appellant for the presence of Kalicharan in the ill-fated jeep at the time of accident leaves no room for any doubt that the ill-fated jeep was being used for hire and the injured Kalicharan was travelling in the ill-fated jeep as a passenger. In this view of the matter, the learned Motor Accident Claims Tribunal has rightly held that there was a breach of policy by the owner of the vehicle while fastening liability to pay compensation on the appellant. As a result, this Miscellaneous Appeal (C) No.363/2006 is dismissed as being devoid of merit at the stage of admission. In view of above, M.(C).P.No.1877/2006 for grant of stay also stands disposed of. Certified copy as per rules.	Sd/- Dilip Raosaheb Deshmukh Judge

P.T.O.

21/11/06